

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against FRANK AREND SCHULTE,
a Minnesota Attorney,
Registration No. 244934.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) and 12(a), Rules on Lawyers Professional Responsibility (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 13, 1994. Respondent currently practices law in St. Paul, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

Respondent's history of prior discipline, including admonitions, is as follows:

- A. On June 6, 2005, respondent was placed on private probation for yelling at a client in a courthouse building, disclosing confidential client information, failing to return client property, and failing to cooperate with a disciplinary investigation in violation of Rules 1.6(a), 8.4(d), 1.15(c)(4),

1.16(d), and 8.1(a)(3), Minnesota Rules of Professional Conduct (MRPC), and Rule 25, RLPR.

- B. On November 23, 2010, respondent was issued an admonition for failing to diligently pursue a client's case, failing to properly serve the opposing party, failing to communicate with the client, and failing to timely provide the client's file to new counsel in violation of Rules 1.3, 1.4(a)(2) and (4), and 1.16(d), MRPC.
- C. On December 29, 2010, respondent was issued an admonition for failing to advise his client he was not going to attend court, failing to safely hold client property, and failing to attend court in violation of Rules 1.4(b), 1.15(c), 3.4(c), and 8.4(d), MRPC.

FIRST COUNT

Non-Cooperation

- 1. Respondent maintains trust account no. -1390 at US Bank (hereinafter "respondent's trust account").
- 2. On September 9, 2013, respondent's trust account became overdrawn. Pursuant to Rule 1.15, MRPC, US Bank reported the overdraft to the Director.
- 3. On September 18, 2013, the Director wrote to respondent enclosing a copy of the September 9, 2013, overdraft notice and requesting, within ten days, a written explanation for the overdraft with supporting documentation. Respondent failed to respond to the Director's September 18 letter.
- 4. On October 4, 2013, the Director wrote to respondent requesting, within one week, the documents and information requested in the Director's September 18 letter.
- 5. On October 16, 2013, respondent called the Director's Office and explained that he did not timely respond due to being out of town for a few days. Respondent

agreed to provide the information and documents requested in the Director's September 18 letter by Friday, October 18, 2013.

6. On October 21, 2013, the Director received a letter from respondent, along with a copy of the check that caused the overdraft and bank statements from July through September 2013.

7. On October 22, 2013, the Director wrote to respondent asking him to provide within two weeks the remainder of the documents requested in the Director's September 18 letter. The Director also enclosed a copy of the Director's Office's trust account brochure. Respondent failed to respond.

8. On November 14, 2013, the Director wrote to respondent requesting a response to the Director's October 22 letter within one week. Respondent failed to respond.

9. Based upon respondent's failure to respond, the Director converted the overdraft inquiry into a formal disciplinary investigation. On December 10, 2013, the Director sent respondent notice of investigation regarding his trust account overdraft as set forth above. The Director's notice requested, within 14 days, that respondent provide his trust account books and records from May 2013 to November 2013, along with a detailed explanation for respondent's failure to respond to the Director's October 22 and November 14, 2013, correspondence. Additionally, the notice requested respondent to identify any of the requested books and records that respondent had not maintained. Respondent failed to respond to the notice of investigation.

10. On January 2, 2014, the Director wrote to respondent requesting, within ten days, the information and documents requested in the notice of investigation.

11. On January 2, 2014, respondent called the Director stating he would submit the requested documents by January 8, 2014.

12. On January 17, 2014, the Director wrote to respondent requesting the information and documents requested in the notice of investigation within seven days. Respondent failed to respond.

13. On January 28, 2014, the Director wrote to respondent requesting he attend a meeting at the Director's Office on February 11, 2014, at 10:00 a.m. Respondent failed to attend the February 11 meeting.

14. On February 12, 2014, the Director wrote to respondent requesting a response to the notice of investigation no later than February 19, 2014.

15. On February 18, 2014, respondent called the Director. Respondent informed the Director that he did not keep the required trust account books and records, but agreed to provide the documents that he did have by February 25, 2014. Respondent also agreed to appear at the Director's Office for a meeting on March 6, 2014.

16. On February 25, 2014, respondent provided to the Director a reconstructed and unannotated checkbook register for the period from August 1, 2013, through January 31, 2014, and a bank statement for the same timeframe.

17. On March 6, 2014, the Director met with respondent. During the meeting, respondent reiterated that he was not keeping all the required books and records. Respondent also agreed to reconstruct his trust account books and records from July 2013 to the present within thirty days. Respondent failed to provide reconstructed trust account books and records to the Director.

18. On April 21, 2014, the Director wrote to respondent requesting the reconstructed trust account books and records within seven days. Respondent failed to provide said records.

19. On April 28, 2014, the Director received a fax from respondent dated April 14, 2014, requesting until April 30, 2014, to provide the requested books and records to the Director.

20. On April 30, 2014, the Director wrote to respondent requesting he immediately submit the requested trust account books and records. To date, respondent has not provided the complete reconstructed trust account books and records as requested.

21. On June 4, 2014, the Director mailed to respondent charges of unprofessional conduct (charges). Respondent was required to submit his answer to the charges within 14 days. To date, respondent has failed to file an answer to the charges.

22. Respondent's conduct in failing to cooperate with the Director's Office violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

SECOND COUNT

Trust Account

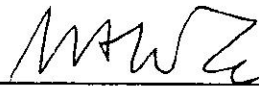
23. From approximately September 2012 through March 2014, respondent failed to keep the required trust account books and records, including a check register, client subsidiary ledgers, monthly trial balances, and monthly trust account reconciliations.

24. Between at least August 2013 and January 2014, respondent improperly used his trust account to pay a monthly Internet bill that is personal/business-related and is not attributable to a client. As respondent has not provided his complete books and records to the Director, the Director is unable to determine whether respondent used earned fees that were left in his trust account or whether respondent used client funds to pay the Internet bills. It is also unclear whether respondent paid additional personal/business/non-client-related expenses from his trust account.

25. Respondent's conduct in failing to keep the required trust account books and records and paying personal/business expenses from his trust account violated Rule 1.15(a), (b), (c)(3), and (h), MRPC, as interpreted by Appendix 1 thereto.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: July 2, 2014.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY

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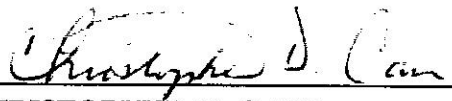
and



SIAMA Y. CHAUDHARY
SENIOR ASSISTANT DIRECTOR
Attorney No. 350291

This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: July 7, 2014.



CHRISTOPHER D. CAIN
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD